

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ABRAHAM BARKHORDAR, SARAH ZELASKY,
and ELLA WECHSLER-MATTHAEI, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

PRESIDENT AND FELLOWS OF HARVARD
UNIVERSITY,

Defendant.

No. 1:20-cv-10968-IT

Hon. Indira Talwani

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE
SECOND NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs, by and through their attorneys, and as their Motion for Leave to File Second Notice of Supplemental Authority hereby state the following:

1. In Plaintiffs' Opposition to Defendant's Motion to Dismiss, Plaintiffs noted "[n]umerous courts analyzing similar claims against educational institutions for failure to provide live, in-person instruction and access to campus facilities in the wake of COVID-19 have denied motions to dismiss claims for breach of contract and unjust enrichment." ECF No. 47 at 1–2 (collecting cases).

2. Since the submission of Plaintiffs' opposition on October 21, 2020 and Plaintiff's first notice of supplemental authority filed on November 5, 2020 (ECF No. 51), Plaintiffs have identified five additional recent, persuasive decisions. Such additional decisions include the following, which Plaintiffs submit as additional support for an order denying Defendant's motion to dismiss:

- *Verlanga v. Univ. of San Francisco*, 2020 Cal. Super. LEXIS 1785 (Cal. Super. Ct. Nov. 12, 2020) (Exhibit 1);

- *Gibson v. Lynn Univ., Inc.*, 2020 WL 7024463 (S.D. Fla. Oct. 29, 2020) (Exhibit 2);
- *Kishinevsky v. Bd. of Trustees of Metro. State Univ. of Denver*, 2020 Colo. Dist. LEXIS 781 (Colo. Dist. Ct. Nov. 23, 2020) (Exhibit 3);
- *Saroya v. Univ. of the Pac.*, 2020 WL 7013598 (N.D. Cal. Nov. 27, 2020) (M.D. Fla. Sept. 16, 2020) (Exhibit 4); and
- *Spiegel v. The Trustees of Indiana Univ.*, 2020 Ind. Cir. LEXIS 388 (Ind. Cir. Ct. Nov. 19, 2020) (Exhibit 5).

Dated: December 9, 2020

Respectfully submitted,

/s/ Daniel J. Kurowski

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*Attorneys for Plaintiffs, individually and on behalf
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LOCAL RULE 7.1 CERTIFICATION

I hereby certify that counsel for Plaintiffs (Daniel J. Kurowski) conferred with counsel for Defendant Marni Barta regarding Plaintiffs' intent to submit a second notice of supplemental authority, providing counsel with a copy of Plaintiffs' intended submission, and requesting Defendant's position. On December 8, 2020, counsel for Defendant noted Plaintiffs may represent that the motion is unopposed so long as Plaintiffs assent to Harvard filing a response should Defendant deem it appropriate to do so. As a result, this motion is unopposed.

/s/ Daniel J. Kurowski

CERTIFICATE OF SERVICE

I, Daniel J. Kurowski, hereby certify that on December 9, 2020 the foregoing document filed through the Court's CM/ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Daniel J. Kurowski
Daniel J. Kurowski